FEDERAL MARITIME COMMISSION

PUBLICATION OF INACCURATE OR INACTIVE OCEAN COMMON CARRIER TARIFFS	Docket No. 11-20

Served: March 20, 2012

BY THE COMMISSION: Richard A. Lidinsky, Jr., *Chairman*; Joseph E. Brennan, Rebecca F. Dye, Michael A. Khouri, and Mario Cordero, *Commissioners*.

Order dismissing Respondent Western Pacific Shipping Company and finding violations of the Shipping Act

This proceeding was initiated by an Order to Show Cause (Order) issued by the Commission on November 7, 2011, to the forty-six entities listed in Appendix A of the Order, pursuant to sections 8 and 11 of the Shipping Act of 1984 (Act), 46 U.S.C. §§ 40501, 41302 and the Commission's regulations governing the tariff requirements of ocean common carriers, 46 C.F.R. Part 520, to show cause why the Commission should not cancel their FMC-1 forms currently on file with the Commission (identifying the location of the carrier's published tariff(s)), for failure to provide service as vessel-operating common carriers (VOCCs) in accordance with the routes and rates set forth in their tariff publications and FMC-1 forms. The entities were also ordered to show cause why the Commission should not order them to cease and desist all activities by which they may hold out to provide

service as a common carrier within the meaning of 46 U.S.C. § 40102 until such time as they commence providing ocean common carrier service in the foreign commerce of the United States or have filed with the Commission proof of compliance with the tariff and financial responsibility requirements governing non-vessel-operating common carriers (NVOCCs).

In response, four Respondents (LCI Shipholdings Inc., Overseas Transport Company of 2000, BSLE Malta Limited, and VOC Steel Services B.V.) have ceased publishing their VOCC tariffs. One Respondent, Western Pacific Shipping Company, filed a response to the Order claiming that it is currently an active VOCC and arguing that its FMC-1 filing should not be canceled. The remaining forty-one Respondents did not submit any responses. The Commission's Bureau of Enforcement (BOE), designated as a party to the proceeding, submitted a memorandum of law and proposed findings of fact supported by affidavit. The Commission adopts those findings of fact.

LCI Shipholdings Inc., Overseas Transport Company of 2000, BSLE Malta Limited, and VOC Steel Services B.V. did not challenge the Commission's assertion that they do not appear to operate vessels in the U.S. foreign commerce. While not filing formal replies, these Respondents have ceased publishing their VOCC tariffs. Because these four Respondents have voluntarily resolved the Commission's concerns as to their VOCC tariffs, no further action is necessary.

Forty-one Respondents did not respond to the Order to Show Cause why the Commission should not remove their FMC-1 filings from the Commission's database. The evidence supporting the Order is substantial and uncontested by these Respondents. Therefore, the Commission finds that these forty-one Respondents have violated section 8 of the Act and the Commission's regulations at 46 CFR Part 520 by holding out to provide services as VOCCs and by not operating vessels providing common carrier services in the U.S. foreign commerce in accordance with their

published VOCC tariffs and FMC-1 forms. The Commission notes that several of these Respondents were identified in commercial trade databases as shippers or consignees of cargo physically transported on the vessels of others and that such commercial activity ordinarily is indicative of service as a non-vessel-operating common carrier (NVOCC) rather than as a VOCC. Accordingly, the Commission directs these forty-one Respondents to cease and desist all activities by which they may hold out to provide service as a VOCC,[1] an ocean common carrier within the meaning of 46 U.S.C. § 40102(17), until such time as they commence providing ocean common carrier service in the foreign commerce of the United States or have complied with any applicable tariff and financial responsibility requirements governing NVOCCs.

Respondent Western Pacific Shipping Company filed a response to the Order claiming that it is currently an active VOCC and arguing that its FMC-1 filing should not be canceled. In its response, Respondent Western Pacific Shipping Company submitted five bills of lading and a September 28, 2011, newspaper advertisement that describes service from Asia, Australia, and New Zealand to Guam. The bills of lading identify Western Pacific Shipping Company and show service to Guam as recently as October of 2011. BOE proposes that, because it appears Respondent Western Pacific Shipping Company may be operating in accordance with its published tariffs, the Commission should decline to cancel the FMC-1 filing of Respondent Western Pacific Shipping Company, without entering further findings or conclusions whether or not Western Pacific Shipping Company is currently operating as an ocean common carrier within the meaning of the Act and Commission precedents. As support for their suggestion, BOE cites Failure of Vessel Operating Common Carriers in the Foreign Commerce of the United States to Comply With the Certification Filing Requirements of Section 21(b) of the Shipping Act, 21 SRR 706 (FMC 1978), a case where the

[1] Ocean common carrier is defined as a vessel-operating common carrier. 46 U.S.C. § 40102(17).

Commission determined not to immediately cancel the tariffs of certain carriers, noting that this would not preclude subsequent action for assessment of civil penalties for violations of the Act. As Western Pacific Shipping Company has submitted some evidence that it is operating as a VOCC in accordance with its published tariff, the Commission will not cancel the FMC-1 filing of Western Pacific Shipping Company at this time and dismisses Western Pacific Shipping Company from the proceeding. The Commission is not precluded from appropriate future action against Western Pacific Shipping Company.

NOW THEREFORE, IT IS ORDERED That Action Marine Group LLC; African Atlantic Lines, Inc.; Allstate Shipping Line, LLC; American-Iraqi Shipping Line, Inc.; Arawak Line, Ltd.; Asia Project Services Pte. Ltd.; Alantsskip HF; Autoterminal International Limited; Azure Shipping Corporation S.A.; Carib Services Ltd.; Caribbean Star I Freight Lines; Caribbean Transport Line S.A.; Ceylon Shipping Corporation Ltd.; Ceylon Shipping Corporation Ltd.; Cido Car Carrier Service Limited; Columbia Coastal Transport Incorporated; Gateway Maritime Transport Corporation; GMP Holding, Ltd.; IMC Maritime Group; Jackson Shipping, Inc.; Kookyang Shipping Col, Ltd.; Last-Land Air & Sea Transport; Lineas Agromar S.A.; Lineas Maritimas Mundiales, S.A.; Moby Maritime Corporation; MP Ferrymar, Inc.; MP Line de Mexico; Olympic International Ltd.; Omnium Brasil Line, LLC; Overseas Carrier, Inc.; Pan Ocean Shipping Company, Ltd.; Phoenix Caribbean Shipping Line, Inc.; POL-Atlantic, LTD.; Rusflot Shipping Line N.V.; Sloman Neptun; Star West Joint Service; Strong Maritime Corporation; Transportacion Maritima Grancolombiana S.A.; Unimar Maritime Limited; Venezuelan Container Line, C.A.; and Windward Maritime LLC violated section 8 of the Act, 46 U.S.C. § 40501, by holding out to provide services as VOCCs, and by not operating vessels providing common carrier services in the U.S. foreign commerce in accordance with their respective published tariffs and FMC-1 filings; and

IT IS FURTHER ORDERED THAT Action Marine Group LLC; African Atlantic Lines, Inc.; Allstate Shipping Line, LLC; American-Iraqi Shipping Line, Inc.; Arawak Line, Ltd.; Asia Project Services Pte. Ltd.; Alantsskip HF; Autoterminal International Limited; Azure Shipping Corporation S.A.; Carib Services Ltd.; Caribbean Star I Freight Lines; Caribbean Transport Line S.A.; Ceylon Shipping Corporation Ltd.; Ceylon Shipping Corporation Ltd.; Cido Car Carrier Service Limited; Columbia Coastal Transport Incorporated; Gateway Maritime Transport Corporation; GMP Holding, Ltd.; IMC Maritime Group; Jackson Shipping, Inc.; Kookyang Shipping Col, Ltd.; Last-Land Air & Sea Transport; Lineas Agromar S.A.; Lineas Maritimas Mundiales, S.A.; Moby Maritime Corporation; MP Ferrymar, Inc.; MP Line de Mexico; Olympic International Ltd.; Omnium Brasil Line, LLC; Overseas Carrier, Inc.; Pan Ocean Shipping Company, Ltd.; Phoenix Caribbean Shipping Line, Inc.; POL-Atlantic, LTD.; Rusflot Shipping Line N.V.; Sloman Neptun; Star West Joint Service; Strong Maritime Corporation; Transportacion Maritima Grancolombiana S.A.; Unimar Maritime Limited; Venezuelan Container Line, C.A.; and Windward Maritime LLC cease and desist all activities by which they hold out to provide service as ocean common carriers within the meaning of 46 U.S.C. § 40102(17), until such time as they commence providing ocean common carrier service in the foreign commerce of the United States or comply with any applicable tariff and financial responsibility requirements governing NVOCCs.

FINALLY, IT IS ORDERED THAT Western Pacific Shipping Company is dismissed from the proceeding.

By the Commission.

Karen V. Gregory
Secretary